IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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R.S.A. No.1708 of 2006
Date of Decision:13.11.2007

Bhagat Ram and others

.....Appellants

Vs.

Haryana State and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. S.S.Godara, Advocate for the appellants.

Mr. Rajeev Kawatra, Sr. DAG, Haryana for the respondents.

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Rajesh Bindal, J.

The plaintiff is in second appeal before this Court against concurrent finding of fact by both the Courts below whereby suit filed by them for permanent injunction restraining the respondents/ defendants from demolishing outlet No.97000/L Bhirdana Distributory has been dismissed.

The case set up by the appellants/ plaintiffs is that they are co-sharer in outlet No.97000/L Bhirdana Distributory and the same is being used by them since 1980 and the respondents/ defendants were in process to change the outlet thereby depriving the appellants/ plaintiffs regular supply of water to irrigate their fields. In spite of the fact that the respondents/ defendants were ex parte before the learned trial Court, still the Court did not find the material placed on record by the appellants/ plaintiffs to decree the suit in their favour. In appeal, the learned Lower Appellate Court found that it was mere apprehension of the appellants that outlet No.97000/L Bhirdana Distributory was being shifted to some other place as no material had been produced by the appellants on record to substantiate their plea. Even the apprehension of the appellants to the effect that they were to be deprived of using the outlet to irrigate their lands was also found to be in air. Still further no material was placed on record to show that there were any intention of the respondents to dispose of the land owned by them. Once there was no material produced on record by the appellants to substantiate

the plea raised by them in the suit, in my opinion, no illegality has been committed by the Courts below in non-suiting the appellants.

No substantial question of law arises.

Dismissed.

November 13, 2007 **(RAJESH BINDAL)**
renu **JUDGE**